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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,506	02/26/2004	David Wender	04635/000N066-US0	7427
7278                      7590                      04/23/2008 DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770				
EXAMINER				
TINKLER, MURIEL S				
ART UNIT		PAPER NUMBER		
3691				
MAIL DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/788,506

**Applicant(s)**

WENDER, DAVID

**Examiner**

MURIEL TINKLER

**Art Unit**

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/ISD)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 5/21/2004

### **DETAILED ACTION**

This application has been reviewed. Claims 1-34 are pending. The rejection(s) are as follows.

#### ***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 2, 8, 13, 17, 20 and 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
3. Claims 2 and 13 disclose the sole limitation of calculating a price of the option spread. Calculations are not considered to be statutory subject matter.
4. Claims 8 and 17 disclose the sole limitation of displaying information. Simply displaying information is not considered to be statutory subject matter.
5. Claim 20 discloses a limitation of displaying a set of grids on a display device, each grid representing an optioncode and comprising a set of selectable options. Simply displaying information is not considered to be statutory subject matter.
6. Claim 23 discloses the limitations of: viewing a set of grids on a display device, each grid representing a single option code and comprising a set of selectable boxes; and, selecting a sequence of boxes, each selection in the sequence comprising an optioncode, contract, a strike, and a callput. These method steps require human intervention, directing it to non-statutory subject matter.

7. Claims 28-30 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility.
8. Claims 28-30 disclose the limitation of instructing a sign change of the received option spread that reverses the sign of the received quantity for at least one user selection in the sequence. This limitation does not have a useful utility and is considered to be non-functional descriptive material.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims rejected under 35 U.S.C. 102(b) as being anticipated by Lange (US 2002/0147670), hereafter referred to as Lange.
11. Regarding claims 1, 11, 12, 19, 20, 33 and 34, Lange discloses: offering a digital option spread in paragraph 797; that option selling is common place and well known in the art in paragraph 803; and determining the type of option spread based on comparing a first option spread to a second option spread in paragraph 783.
12. Regarding claims 2 and 13, Lange discloses the calculation of an option spread in paragraph 806.
13. Regarding claims 3 and 14, Lange discloses naming an option spread (binary/digital options) in paragraph 33.

14. Regarding claims 4, 5, 15 and 25, Lange discloses the use of sensitivity analysis calculations in paragraph 745 and 866.
15. Regarding claims 6 and 16, Lange discloses the act of displaying the price and name in figure 2 (elements 100, 160, 170, 190 and 200).
16. Regarding claims 7-9 and 17, Lange discloses sending information to the display device in figure 6.
17. Regarding claim 10 and 18, Lange discloses an input device in figure 2 (element 240).
18. Regarding claims 21 and 26, Lange discloses a display with an x and y axis in figure 6 (element 503).
19. Regarding claim 22, Lange discloses: the use of real-time in paragraph 44 and varying time periods in paragraph 110; and, the use of software in paragraphs 748, 817 and 996.
20. Regarding claim 24, Lange discloses the act of receiving a positive or negative change in quantity in paragraphs 623 and 758.
21. Regarding claim 27, Lange discloses saving an option spread to a watch list (HTML interface) in figure 6.
22. Regarding claims 31 and 32, Lange discloses that market based hedging is well known in the art in paragraph 11 and the use of hedging with respect to stock price in paragraph 216.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MURIEL TINKLER whose telephone number is (571)272-7976. The examiner can normally be reached on Monday through Friday from 6:30 AM until 3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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